REMARKS

Applicants appreciate the Examiner's thorough consideration provided the present application. Claims 1-10 and 16-23 are now present in the application. Claims 1 and 16 have been amended. Claims 1 and 16 are independent. Reconsideration of this application, as amended, is respectfully requested.

Reasons For Entry Of Amendments

As discussed in greater detail hereinafter, Applicants respectfully submit that the rejections under 35 U.S.C. §§ 102 and 103 are improper and should immediately be withdrawn. Accordingly, the finality of the Final Office Action mailed on March 30, 2007 should be withdrawn.

If the Examiner persists in maintaining his rejections, Applicants submit that this Amendment was not presented at an earlier date in view of the fact that Applicants are responding to a new ground of rejection set forth in the Final Office Action. In accordance with the requirements of 37 C.F.R. §1.116, Applicants respectfully request entry and consideration of the foregoing amendments as they remove issues for appeal.

Claim Rejections Under 35 U.S.C. §§ 102 & 103

Claims 1-3, 7, 9, 10, 16-18 and 21-23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yano et al., U.S. Patent No. 5,608,702 (hereinafter "Yano"). Claims 1, 5, 6, 16 and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ishihara, U.S. Patent No. 6,449,222 (hereinafter "Ishihara"). Claims 4 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yano in view of Ishihara. Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Yano in view of Kunikata et al., U.S. Patent No. 5,661,705 (hereinafter "Kunikata"). These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

In light of the foregoing amendments to the claims, Applicants respectfully submit that this rejection has been obviated and/or rendered moot. Without conceding to the propriety of the Examiner's rejection, but merely to timely advance the prosecution of the application, as the Examiner will note, independent claims 1 and 16 have been amended.

Independent claim 1 now recites a combination of steps including "performing a focus search operation on an optical disc and at the same time determining whether there is a reflection signal from the optical disc", "after performing the focus search operation, moving the optical pick-up unit toward a predetermined beginning point of the optical disc based on the result of the determining step" and "monitoring a level of an RF signal generated from the reflection signal from the optical disc and determining the optical pick-up unit has moved to the beginning point of the optical disc when the level of the RF signal is lower than a predetermined level, while the optical pick-up unit is in motion."

Independent claim 16 now recites a combination of elements including "first means for performing a focus search operation on an optical disc the condition and at the same time determining whether there is a reflection signal from the optical disc", "after performing the focus search operation, second means for moving the optical pick-up unit toward a predetermined beginning point of the optical disc based on the determining result" and "third means for monitoring a level of an RF signal generated from the reflection signal from the optical disc and determining the optical pick-up unit has moved to the beginning point of the optical disc when the level of the RF signal is lower than a predetermined level, while the optical pick-up unit is in motion."

Support for the amendments to claims 1 and 16 can be found in paragraph 031 of the specification as originally filed. Applicants respectfully submit that the above combinations of steps and elements set forth in claims 1 and 16 are not disclosed or suggested by the references relied on by the Examiner.

The Examiner on page 9, line 1-3 of the outstanding Office Action has correctly acknowledged that Yano's process is different from the present invention because Yano fails to teach monitoring the level of an RF signal and determining the optical pick-up unit has moved to the beginning point of the optical disc when the level of the RF signal is lower than a predetermined level. Therefore, Yano fails to teach "monitoring a level of an RF signal generated from the reflection signal from the optical disc and determining the optical pick-up unit has moved to the beginning point of the optical disc when the level of the RF signal is lower than a predetermined level" as recited in claims 1 and 16.

Ishihara also fails to cure the deficiencies of Yano. In particular, although Ishihara teaches comparing the value B of the RF signal with another value A, the comparison is used to determine if the position of the light spot arrive at an end on an outer radius of the embossed area EA (see FIG. 2 and col. 10, lines 26-48). As shown in FIGs. 1 and 2 of Ishihara, the end on an outer radius of the embossed area EA is at the right side of the embossed area EA, and most of the lead-in area is located at the left side of the embossed area EA. In other words, the comparison is simply used to determine whether the position of the light spot arrives at an end on an outer radius of the embossed area EA, not to determine whether the position of the light spot arrives at the beginning point of the optical disc because there are still a plurality of data tracks (lead-in area) at the left side of the embossed area EA. Therefore, Ishihara also fails to teach "monitoring a level of an RF signal generated from the reflection signal from the optical disc and determining the optical pick-up unit has moved to the beginning point of the optical disc when the level of the RF signal is lower than a predetermined level" as recited in claims 1 and 16.

In the alternative, Ishihara fails to teach "performing a focus search operation on an optical disc and at the same time determining whether there is a reflection signal from the optical disc" as recited in claim 1 and "first means for performing a focus search operation on an optical disc the condition and at the same time determining whether there is a reflection signal from the optical disc" as recited in claim 16.

In particular, the Examiner has correctly acknowledged that Ishihara fails to explicitly disclose performing a focus search and at the same time determining whether there is a reflection signal from the optical disc. However, the Examiner alleged that Ishihara performs a focus search operation because if the information is being detected, the light must be focused on the recorded surface of the disc. Applicants respectfully disagree.

As shown in FIG. 4 of Ishihara, the *tracking servo* control is turned on (Step S1) and it is determined whether any information can be detected from a reflection light of the radiated light beam B (Step S2.) As the Examiner knows, there are at least two types of servo control, including the *tracking servo* control and the *focus servo* control. The tracking servo control is used to detect the *tracking error*. During or before the operation of the tracking servo control, the *focus servo* control may not be necessarily performed. When performing the tracking servo control, it does need to detect the reflection light in order to determine if the light spot is on track. However, it does not require that the light spot must be focused on the recorded surface of the disc as the Examiner alleged.

Under the doctrine of inherency, "[i]nherent anticipation requires that the missing descriptive material is 'necessarily present,' not merely probably or possibly present, in the prior art." *Trintec Indus., Inc. v. Top-U.S.A. Corp.,* 295 F.3d 1292, 1295, 63 USPQ2d 1597, 1599 (Fed. Cir. 2002) (quoting *In re Robertson,* 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)). Since when performing the tracking servo control, it does *not require* that the light spot must be focused on the recorded surface of the disc, Ishihara also fails to inherently disclose performing a focus search and at the same time determining whether there is a reflection signal from the optical disc.

In the alternative, even if the light must be focused on the recorded surface of the disc if the information is being detected as the Examiner alleged, assuming *arguendo*, Ishihara still fails to teach performing a focus search and *at the same time* determining whether there is a reflection signal from the optical disc. In particular, based on the Examiner's rationales, the focus search must have been done *before* the information can be detected; otherwise, the information cannot be detected due to the out-of-focus light spot. In other words, it is not possible to perform a focus search and *at the same time* determine whether there is a reflection signal from the optical disc as recited in claims 1 and 16

In view of the above, Ishihara fails to teach "performing a focus search operation on an optical disc and at the same time determining whether there is a reflection signal from the optical disc" as recited in claim 1 and "first means for performing a focus search operation on an optical disc the condition and at the same time determining whether there is a reflection signal from the optical disc" as recited in claim 16.

With regard to the Examiner's reliance on Kunikata, this reference has only been relied on for its teachings related to dependent claim 8. This reference also fails to disclose the above combinations of steps and elements as set forth in amended independent claims 1 and 16. Accordingly, this reference fails to cure the deficiencies of Yano and Ishihara.

Accordingly, none of the references utilized by the Examiner individually or in combination teach or suggest the limitations of amended independent claims 1 and 16. Therefore, Applicants respectfully submit that independent claims 1 and 16 and their dependent claims (at least due to their dependency) clearly define over the teachings of the references relied on by the Examiner. Reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102 and 103 are respectfully requested.

Additional Cited References

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state of the art, no further comments are necessary with respect thereto.

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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